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Honorable Deborah Day
Program Director
Children's Trust Fund of Alabama
P. O. Box 4251
Montgomery, AL 36103-4251

Child Abuse and Neglect -
Reporting Requirements -
Liability - Volunteer Service
Act

Child abuse prevention education program presenters who receive disclosures of abuse from children following a presentation are mandatory reporters under Section 26-14-3. Such reporters, whether paid or volunteer presenters, are immune from any liability, civil or criminal, incurred or imposed in the making of the report.

Dear Ms. Day:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTIONS

Are presenters of child abuse prevention education programs in the school setting considered mandatory reporters as described

in § 26-14-3 of the Alabama Code or permissive reporters under § 26-14-4 of the Alabama Code?

Do presenters of child abuse prevention education programs in the school setting have any immunity from any liability?

FACTS, LAW AND ANALYSIS

Code of Alabama 1975, § 26-14-3, provides, in pertinent part, as follows:

"§ 26-14-3. Mandatory reporting.

"(a) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, nurses, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals or any other person called upon to render aid or medical assistance to any child, when such child is known or suspected to be a victim of child abuse or neglect, shall be required to report, or cause a report to be made of the same, orally, either by telephone or direct communication immediately, followed by a written report, to a duly constituted authority." (Emphasis added.)

It is the opinion of the Attorney General that presenters of child abuse prevention education programs in the school setting who appear specifically for the purpose of informing children of what to do when they are abused, and to instruct them to tell someone when they are being abused, and who, in response to that presentation, receive a disclosure from a child that the child is being abused, are covered by the mandatory reporter provisions of § 26-14-3 which requires "any other person called upon to render . . . aid to any child, when such child is known or suspected to be a victim of child abuse or neglect" to report the abuse. It is axiomatic that child abuse prevention program presenters who

inform children that aid is available for them when they are abused, and tell them to report abuse in order to receive assistance and protection, and who in response to that information receive a disclosure from a child, are being called upon to render "aid" to the child. It is also apparent from reading § 26-14-3(a) as a whole that the term "aid" is not restricted to medical aid or medical assistance from a practitioner of the healing arts as that section specifically lists numerous mandatory reporters who are not medical practitioners, such as school teachers and officials, peace officers, law enforcement officials, social workers, and day care workers or employees and references the broad term "aid" separately from the term "medical assistance."

Because § 26-14-9, Code of Alabama 1975, specifically provides immunity from any liability, civil or criminal, that might be incurred or imposed for any person, firm, corporation, or official participating in the making of a report under the child abuse and neglect reporting chapter, presenters of child abuse prevention education programs, whether employed as staff members of an organization such as the Children's Trust Fund or volunteers for such an agency, are immune from both civil and criminal liability in regard to the making of a report as required by § 26-14-3. The constitutionality of this immunity provision was upheld in Harris v. City of Montgomery, 435 So.2d 1207 (Ala. 1983), as constituting a valid exercise of the police power to eradicate child abuse.

Also, volunteer presenters who participate in a child abuse prevention education program presented and sponsored by a nonprofit organization or corporation, a hospital, or a governmental entity who perform their services without compensation, other than reimbursement for actual expenses incurred, are immune from civil liability in any action on the basis of any act or omission of the volunteer resulting in damage or injury where the volunteer acted in good faith and within the scope of his or her functions and duties and the damage or injury is not caused by willful or wanton misconduct by the volunteer. Code of Alabama 1975, § 6-5-336. However, this immunity only applies where the volunteer is rendering the service through one of the entities listed above. See opinion to the Honorable Phillip L. Hicks, dated March 2, 1993, A.G. No. 93-00147.

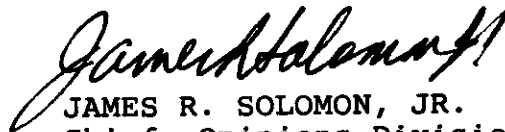
CONCLUSION

Presenters of child abuse prevention education programs in the school setting are mandatory reporters under § 26-14-3, Code of Alabama 1975. Any such presenter making a report pursuant to § 26-14-3 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed in the making of the report under the immunity provisions of § 26-14-9, Code of Alabama 1975. Further, volunteer presenters who present child abuse prevention education programs through a nonprofit organization or corporation, a hospital, or governmental entity are immune from civil liability in any action on the basis of any act or omission of the volunteer where the volunteer acted in good faith and within the scope of his or her functions and duties, and the damage or injury was not caused by willful or wanton misconduct of the volunteer under the immunity provisions of § 6-5-336, Code of Alabama 1975.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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